

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

SCHWEITZER-MAUDUIT INTERNATIONAL, INC.

Plaintiff,

v.

ASTRA TOBACCO CORPORATION,
DELFORTGROUP AG,
JULIUS GLATZ GMBH, and
LIPTEC GMBH,

Defendants.

Civil Action No. 2:10-cv-00293-RMG

Jury Trial Demanded

**PLAINTIFF'S MOTION FOR ISSUANCE OF LETTER ROGATORY
FOR INTERNATIONAL SERVICE**

Plaintiff, Schweitzer-Mauduit International, Inc., respectfully moves this Court under Rule 4(f)(2)(B), Fed. R. Civ. P., for issuance of a Letter Rogatory to request international assistance to effect service of process on Defendant delfortgroup AG ("Delfort"). In support of this motion, Plaintiff states as follows:

1. On September 8, 2010, Plaintiff filed a Second Amended Complaint For Patent Infringement in this case (Dkt. 72), alleging infringement by each of the above-named defendants of one or more claims of each of Plaintiff's United States Patent Nos. 6,725,867 (the "'867 patent") and 5,878,753 (the "'753 patent").

2. Defendants Julius Glatz GmbH and LIPTec GmbH filed a joint Answer to Plaintiff's Second Amended Complaint on September 22, 2010 (Dkt. 74), and Defendant Astra Tobacco Corporation ("Astra") filed and served an Answer and Counterclaims to Plaintiff's Second Amended Complaint on September 27, 2010 (Dkt. 75).

3. On information and belief, Defendant Delfort is a privately owned foreign company with its principal place of business at Fabrikstrasse 20, 4050 Traun, Austria.

4. Plaintiff has been advised by Austrian counsel that service of the Second Amended Complaint (Dkt. 72) and the Summons issued therewith (Dkt. 73) on Delfort cannot be effected by an internationally agreed means of service, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents. See Rule 4(f)(1), Fed. R. Civ. P. Plaintiff has further been advised that service on Delfort must be effected in accordance with Austrian laws for service, which allows for service via the Letters Rogatory process. See Rule 4(f)(2)(B), Fed. R. Civ. P.

5. Plaintiff has been advised that counsel for Defendant Astra also represents Defendant Delfort in matters regarding this present patent infringement action. However, despite repeated requests by Plaintiff, counsel for Defendant Astra will not agree to accept service of the Summons and Second Amended Complaint on behalf of Defendant Delfort in the United States.

6. Accordingly, Plaintiff respectfully requests that this Honorable Court sign and affix its seal to the attached proposed Letter Rogatory addressed to the Appropriate Judicial Authority of Austria for service of the Summons and First Amended Complaint on Delfort (attached as Exh. 1). Two original and two Court-certified copies of the signed and sealed Letter Rogatory are kindly requested. Attached for convenience are copies of the Second Amended Complaint (Dkt. 72), Exhs. A (Dkt. 72-1; the '867 patent) and B (Dkt. 72-2; the '753 patent), and the Summons issued therewith (Dkt. 73).

7. This Request for issuance of the Letter Rogatory supersedes the previous request to Judge Seymour of July 26, 2010.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- A. Grant Plaintiff's request for issuance of the proposed Letter Rogatory (Exh. 1) for service of the Second Amended Complaint, Exhs. A and B, and the Summons issued therewith, on Defendant delfortgroup AG; and
- B. Grant Plaintiff such other and further relief as this Court deems just and equitable.

Dated: October 6, 2010

Respectfully submitted,

s/ David B. McCormack
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